IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20259 of 2004

Between:

B.C. M. Rao, s/o Late Narayana Rao, Hindu,
Conductor, E.No.77172,

R/o D.No. 50-348-L.18. B.B. Camp,

Kurnool, Kurnool District.

..... PETITIONER

AND

1 The Depot Manager,

APSRTC, Allagadda Depot,
Allagadda,Kurnool District.
2 The Regional Manager,

APSRTC, Kurnool Range,

Kurnool.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the action of the respondents in not fixing the pay of the petitioner by adding notional increments for the out of service period ie., 28-11-1995 to 9-7-1999 though the Labour Court of Ananthapur passed the award in I.D.No. 100 of 1996 directing the Corporation to reinstate the petitioner into service with continuity of service but without back wages as illegal, arbitrary in violation of Art 14 and 21 of the Constitution of India and consequently direct the respondents to fix the pay of the petitioner by adding notional increments for the out of service period.

Counsel for the Petitioner: Mr. Y.VENUGOPAL REDDY
Counsel for the Respondents : Mr. P.VINAYAKA SWAMY

The Court at the admission stage made the following ORDER:

The petitioner was appointed as a Conductor in the respondents-Corporation on 08-06-1978. He was issued a charge sheet alleging certain cash and ticket irregularities. Subsequently, an enquiry was conducted and through the proceedings dated
28-11-1995 he was removed from service. Aggrieved by the said order, the petitioner filed I.D.No.100 of 1996 before the Labour Court, Hyderabad. The Labour Court through its award dated
03-02-1999 directed the respondents-Corporation to reinstate the petitioner with continuity of service, but without back wages. Consequent to the publication of the award, the petitioner was reinstated into service and posted to Kaoilkuntla vide order dated 09-07-1999. But, his pay was not fixed by adding the notional increments for the period from the date of termination till the date of reinstatement i.e., from 28-11-1995 to 09-07-1999. The grievance of the petitioner is that the respondents did not fix his pay by adding the notional increments despite his representation. He therefore approached this Court through this Writ Petition to direct the respondents to fix his pay by computing the notional increments from the date of termination till the date of reinstatement.

The award of the lower Court indicates that on reinstatement the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in **REGIONAL MANAGER,**

APSRTC, NIZAMABAD v. B.CHANDER RAO held that the employee is entitled for notional increments, in pursuance of the order of the Labour Court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & ANOTHER v. S.NARASA GOUD** wherein the Supreme Court held that the employee is not

entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **DEVENDRA PRATAP NARAIN RAI SHARMA v. STATE OF U.P.** and gave the above direction.

In the light of the judgment of the Division Bench in **B.CHANDER RAO** (1 supra) and in the light of the order of the Labour Court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

In the result, the writ petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order.

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(Dr.G.YETHIRAJULU,J)

4th November, 2004.

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To

1 The Depot Manager,

APSRTC, Allagadda Depot,
Allagadda,Kurnool District.

2 The Regional Manager,

APSRTC, Kurnool Range,

Kurnool.

3 Two CD Copies.